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# Fax

<b>To:</b> Examiner Kelly Scaggs Campen	<b>Re:</b> 10/575,995 Interview Request
<b>Firm:</b> United States Patent and Trademark Office	<b>Date / Time:</b> February 17, 2010
<b>Street Address:</b>	<b>Phone:</b> (571) 272-6740
<b>City, State Zip:</b> Alexandria, VA 22313	<b>Fax:</b> (571) 273-6740
<b>cc:</b>	<b>No. of Pages:</b> 23 (including cover)

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Doc Code: M865 or FAI.REQ.INTV

Approved for use through 07/31/2012, OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

## Applicant Initiated Interview Request Form

Application No.: 10/575,995

Examiner: CAMPEN, Kelly Scaggs

First Named Applicant: Greg H. Crocker

Art Unit: 3691

Status of Application: Final Rejection Mailed

## Tentative Participants:

(1) Peter K. Trzyna

(2) CAMPEN, Kelly Scaggs

(3)

(4)

Proposed Date of Interview: February 18, 2010

Proposed Time: 11:00 (AM/PM)

DC TIME

## Type of Interview Requested:

(1) ☒ Telephonic(2) ☐ Personal(3) ☐ Video ConferenceExhibit To Be Shown or Demonstrated: ☒ YES☐ NO

If yes, provide brief description: Attached copy of February 16, 2010 Filing

## Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1)			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached☐ Proposed Amendment or Arguments Attached

Brief Description of Arguments to be Presented:

Dictionary Definition from the "Dictionary of Finance and Investment Terms," as provided in the Amendment After Final filed February 16, 2010.

An interview was conducted on the above-identified application on 02/23/2010

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Applicant/Applicant's Representative Signature

Peter K. Trzyna, Esq.

Typed/Printed Name of Applicant or Representative

32,601

Registration Number, if applicable

/Kelly Campen/

Examiner/SPE Signature

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

I hereby certify that this correspondence is being filed by depositing it with the United States Postal Service as first class mail in an envelope with sufficient postage and addressed to MS: AAF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Date: February 16, 2010

Signed:

Peter K. Trzyna (Reg. No. 32,601)

PATENT

Paper No.

Our File No. PKT-P1-06

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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Inventor	:	CROCKER, Greg H.
Serial No.	:	10/575,995
International Application No.	:	PCT/US05/20784
International Filing Date	:	June 13, 2005
For	:	COMPUTER SUPPORT FOR MORTGAGE LOCK OPTION
Group Art Unit	:	KESACK, Daniel
Examiner	:	3691

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MS: AAF  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL LETTER**

S I R:

Transmitted herewith for filing in the above-identified patent application is the following:

1. Amendment After Final.


**APPLICANT CLAIMS SMALL ENTITY STATUS** The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235.

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Atty. Ref. PKT-P1-06  
Art Unit 3691

Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,

Date: February 16, 2010

  
Peter K. Trzyna  
(Reg. No. 82,601)

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I hereby certify that this correspondence is being filed by depositing it with the United States Postal Service as first class mail in an envelope with sufficient postage and addressed to MS: AAF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

PATENT

Paper No.

File: PKT-P1-06

Date: February 16, 2010

Signed:   
Peter K. Trzyna (Reg. No. 62,601)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

---

Inventor	:	CROCKER, Greg H.
Serial No.	:	10/575,995
International Application No.	:	PCT/US05/20784
International Filing Date	:	June 13, 2005
For	:	COMPUTER SUPPORT FOR MORTGAGE LOCK OPTION
Group Art Unit	:	3691
Examiner	:	CAMPEN, Kelly Scaggs

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MS: AAF  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT AFTER FINAL**

S I R :

In response to the Office Action mailed December 14, 2009, in the above-referenced patent application, please reconsider the application in view of that Amendment and the Remarks set forth therein and below. It is believed that no new matter has been added.

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**I. AMENDMENT**

**A. In the Claims**

Please amend the claims as set out below.

1. (Original) Apparatus for controlling a loan option, the apparatus comprising:  
a computer programmed for receiving information into a memory defining specifications for an option on a loan, the specifications including a trigger for executing the option, evaluating the trigger, and if the trigger occurs, signaling execution of the option.
2. (Previously presented) The apparatus of claim 1, wherein the computer is programmed so as to execute the option, if the trigger occurs.
3. (Original) The apparatus of claim 1, wherein the trigger is an interest rate for a lock for a mortgage according to the option.
4. (Original) The apparatus of claim 3, wherein the interest rate trigger is a floor.
5. (Original) The apparatus of claim 3, wherein the interest rate trigger is a ceiling.
6. (Original) The apparatus of claim 3, wherein the interest rate trigger comprises a floor and a ceiling.

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7. (Previously presented) A computer program product having computer code stored thereon, which when run on a computer causes the computer to:

receive information into a memory defining specifications for an option on a loan, the specifications including a trigger for executing the option, evaluate the trigger, and if the trigger occurs, signal execution of the option.

8. (Previously presented) Apparatus controlling execution of an option on a loan, the apparatus including:

a plurality of computers programmed to cooperate to effectuate an option on a loan, wherein one of the computers is programmed to carry out the steps of receiving information into a memory defining specifications for the option on the loan, the specifications including a trigger to execute the option, evaluating the trigger, and if the trigger occurs, transmitting a communication signaling execution of the option to another of the computers to control closing of the loan.

9. (Previously presented) A computer-readable medium tangibly embodying a program of instructions executable by a computer to perform the steps of receiving information into a memory defining specifications for an option on the loan, the specifications including a trigger for executing the option, evaluating the trigger, and if the trigger occurs, signaling execution of the option.

10. (Currently amended) A computer-aided method of carrying out an option on a loan, the method including the steps of:

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receiving into a memory specifications defining the option on the loan, the specifications including a trigger that executes the option;  
evaluating the trigger with a computer accessing the memory and further data;  
and  
if the trigger is detected by the computer, signaling execution of the option.

11. (Previously presented) The method of claim 10, wherein the step of receiving is carried out with the trigger being an interest rate for a lock on a mortgage.

12. (Original) The method of claim 11, wherein the step of receiving is carried out with the interest rate trigger being a floor.

13. (Original) The method of claim 11, wherein the step of receiving is carried out with the interest rate trigger being a ceiling.

14. (Original) The method of claim 11, wherein the step of receiving is carried out with the interest rate trigger being comprised of a floor and a ceiling.

15. (Currently amended) Apparatus to carry out a loan option, the apparatus comprising:

a plurality of computers controlled by respective programs, the computers arranged to communicate data structured to identify an option on a loan corresponding to a computer-evaluated trigger which, if triggered, signals to ; and

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~~means for effectuating the option~~ to control closing of the loan according to the option.

16. (Previously presented) The apparatus of claim 15, further including means for computing a secondary market characteristic related to the option.

17. (Withdrawn) A computer apparatus implementing a loan, the apparatus including:

a database of data relating to mortgage loan applications, the database including an indicator of an application status other than a lock status and a float status; and

a program accessing the database so as to analyze the status information in carrying out closings of some of the loans.

18. (Withdrawn) The computer system of claim 17, wherein the indicator indicates an option status.

19. (Withdrawn) The computer system of claim 17, wherein the program uses shock analysis on said application status loan applications.

20. (Withdrawn) The computer system of claim 18, wherein said database includes one or both of a floor and a ceiling in association with said option status.

21. (Withdrawn) A template to associate data indicating a price lock with data indicating a customer identity, the template comprising:

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- a first data field configured to receive an entry of data indicating a future lock-triggering price for a contemplated loan transaction;
- a prompt soliciting a potential customer to enter data indicating a future lock-triggering price in the first field; and
- a second field configured to receive an entry of data indicating the identity of a potential customer contemplating the transaction; wherein  
the data fields and prompt are carried out by a computer.

22. (Withdrawn) A data structure comprising:

- data indicating a future lock-triggering price for a contemplated loan transaction; and
- data indicating a potential customer associated with the contemplated loan transaction.

23. (Withdrawn) The data structure of claim 22, recorded on a computer readable medium.

24. (Withdrawn) A data structure comprising:

- data indicating a desired future lock-triggering price for one or more contemplated loan transactions; and
- data indicating the monetary value of the one or more contemplated loan transactions.

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25. (Withdrawn) A database recorded on a computer readable medium, the database comprising a multiplicity of records, at least one of the records comprising:

- a desired future lock-triggering price for a contemplated loan transaction; and
- a monetary value representing the scale of the contemplated loan transaction.

26. (Withdrawn) A computer apparatus programmed to carry out the operations of:

- eliciting information regarding a potential customer who contemplates carrying out a financial transaction comprising a loan;
- eliciting a future lock-triggering price contemplated by the customer for the financial transaction;
- determining whether the lock-triggering price is available; and
- if and when the lock-triggering price becomes available, communicating that the lock has been triggered.

27. (Withdrawn) The computer system of claim 26, further programmed for evaluating the information and lock-triggering price to determine whether the financial transaction is acceptable to a seller that contemplates participating in the financial transaction.

28. (Withdrawn) A computer apparatus programmed to carry out the operations of:

- eliciting information regarding a potential customer who contemplates carrying out a financial transaction that includes a loan;

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- eliciting a future lock-triggering price contemplated by the potential customer for the financial transaction; and

- communicating the future lock-triggering price to a potential supplier of the financial transaction.

29. (Withdrawn) A data structure comprising a database of records, each record constituting data documenting a pending loan application, the data structure defining a pool of pending loan applications, each configured for backing a loan-backed security, wherein at least one application in the pool identifies a future lock-triggering price at which the loan will be locked if the triggering price becomes available.

30. (Withdrawn) A computer system comprising the database of claim 25 and a computer processor programmed to carry out the operations of:

- reading associated loan lock-triggering prices in the database,
- searching for prices offered by sellers of the transactions corresponding to the lock-triggering prices,
- when a price offered by a seller of the transactions corresponding to one or more of the lock-triggering prices is located, updating the records in the database to indicate that the rate is locked.

31. (Withdrawn) A self-executing price lock agreement usable by a buyer and seller to establish the price of a future transaction that has a fluctuating market price, comprising:

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- a provision specifying a future lock-triggering price for a future transaction comprising a loan; and

- a provision that the seller automatically agrees to accept the specified future lock-triggering price as the negotiated price of the future transaction, if in the future the market price reaches the future lock triggering price; wherein

said provisions are implemented by a self-executing capability of a computer system.

32. (Withdrawn) A method of establishing a price lock for a future transaction subject to market price fluctuations, the method comprising:

- establishing, by computer, a future lock-triggering price and a lock price for a future transaction comprising a loan, wherein the lock price is the same as or different from the future lock-triggering price;

- establishing, by the computer, that if in the future the market price for the transaction reaches the future lock-triggering price, the price for the transaction shall be the lock price.

33. (Withdrawn) A machine to establish a price lock for a future transaction subject to market price fluctuations, the machine comprising:

- means for establishing a future lock-triggering price for a transaction comprising a loan;

- means for determining in the future whether the market price for the transaction has reached the future lock-triggering price. and

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• means responsive to the determining means for communicating that the market price for the transaction has reached the future lock triggering price.

34. (Withdrawn) A machine to establish a price lock for a future transaction subject to market price fluctuations. the machine comprising:

- a data field for entering a future lock-triggering price for a future transaction comprising a loan;
- a market price monitor programmed for determining in the future whether the market price for the transaction has reached the future lock-triggering price. and
- an output for communicating data indicating that the market price for the transaction has reached the future lock-triggering price.

35. (Withdrawn) A method of implementing a future rate lock for a financial transaction that has a market rate, the method comprising:

- providing a digital computer apparatus comprising a processor for receiving input data, processing the input data to produce output data, and outputting the output data; a memory operatively connected to the processor for storing and retrieving machine readable data input to and output from the processor; and a program operatively connected to the processor to form circuitry in the processor for controlling the processor to receive the input data and to produce and store in the memory the output data;
- inputting data to the processor identifying the customer and a proposed future triggering rate of a loan which the customer proposes to lock in if the market rate reaches the proposed triggering rate;

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- inputting data to the processor identifying the current market rate at which the financial transaction is being undertaken;
- comparing with the processor the proposed future triggering rate to the current market rate; and
- if the current market rate reaches the future triggering rate, the processor generating as output data in the memory a record indicating that the proposed future triggering rate has been locked.

36. (Withdrawn) A method of calculating risk exposure resulting from accepting a portfolio of future rate locks for financial transactions triggered by the market reaching a predetermined trigger rate, the method comprising:
- providing a digital computer apparatus comprising a processor for receiving input data, processing the input data to produce output data, and outputting the output data; a memory operatively connected to the processor for storing and retrieving machine readable data input to and output from the processor; and a program operatively connected to the processor to form circuitry in the processor for controlling the processor to receive the input data and to produce and store in the memory the output data;
  - inputting to the processor the gross volume of loans in a portfolio locked in at a particular lock rate; inputting to the processor a pull through rate for the portfolio;
  - computing with the processor the product of the gross volume of loans and the pull through rate, thus determining the estimated net volume of loans that will be closed at the particular lock rate; and
  - outputting to the memory the estimated net volume of loans that will be closed at the particular lock rate.

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37. (Withdrawn) A method of hedging the risk exposure resulting from accepting a portfolio of future rate locks for financial transactions triggered by the market reaching a predetermined trigger rate, the method comprising:

- providing a digital computer apparatus comprising a processor for receiving input data, processing the input data to produce output data, and outputting the output data; a memory operatively connected to the processor for storing and retrieving machine readable data input to and output from the processor; and a program operatively connected to the processor to form circuitry in the processor for controlling the processor to receive the input data and to produce and store in the memory the output data;
- inputting to the processor the estimated net volume of loans in a portfolio that will be closed at a particular lock rate;
- inputting to the processor the volume of loans that are fully hedged;
- computing with the processor the difference between the net volume of loans that will be closed and the volume of loans that are fully hedged, producing as output data the amount of hedging transactions to properly hedge the portfolio; and
- storing the output data in the memory.

38. (Withdrawn) A computer-aided method of producing an asset-backed security backed by a multiplicity of loans, the loans being defined by agreements between a multiplicity of borrowers and at least one loan provider, the method comprising:

- A. storing in a computer memory a data structure recording a multiplicity of loans undertaken by a multiplicity of borrowers and at least one loan provider, the data structure including for at least one loan data corresponding to an automatic lock-triggering price agreed

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to govern the price of the loan if a defined market price reaches the lock-triggering price under the terms of the loan;

- B. updating the data structure to identify closed loans;
- C. identifying a set of multiple closed loans recorded in the data structure that are qualified to back a loan-backed security; and
- D. forming a loan-backed security by preparing documentation operatively associating the set of multiple loans with the security as the backing for the security.

39. (Withdrawn) The method of claim 38, further comprising comparing data in the data structure relating to the lock-triggering prices of loans to at least one market price, to determine for each loan being compared whether the market price has reached a lock triggering price under the terms of the loan, thereby locking the loan.

40. (Withdrawn) The method of claim 38, further comprising entering data in the data structure recording which loans in the data structure are locked.

41. (Withdrawn) The method of claim 38, further comprising selling the security to a buyer.

42. (Withdrawn) The method of claim 38, wherein the set of loans identified includes at least one loan subject to an automatic lock-triggering price.

43. (Withdrawn) The method of claim 38, wherein the set of loans identified includes at least one loan closed at an automatic lock-triggering price of the loan.

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44. (Withdrawn) A computer-aided method of producing an asset-backed security backed by a multiplicity of loans, the loans being defined by agreements between a multiplicity of borrowers and at least one loan provider, the method comprising:

- A. storing in a computer memory a data structure recording a multiplicity of loans undertaken by a multiplicity of borrowers and at least one loan provider, at least one the loan having an automatic lock-triggering price agreed to govern the price of the loan if a defined market price reaches the lock-triggering price under the terms of the loan;
- B. updating the data structure to identify closed loans;
- C. identifying a set of multiple closed loans recorded in the data structure that are qualified to back a loan-backed security; and
- D. forming a loan-backed security by preparing documentation operatively associating the set of multiple loans with the security as the backing for the security.

45. (Withdrawn) A computer-aided method of producing an asset-backed security backed by a multiplicity of loans, the loans being defined by agreements between a multiplicity of borrowers and at least one loan provider, the method comprising:

- A. storing in a computer memory a data structure recording a multiplicity of loans undertaken by a multiplicity of borrowers and at least one loan provider, at least one the loan having an automatic lock-triggering price agreed to govern the price of the loan if a defined market price reaches the lock-triggering price under the terms of the loan;
- B. updating the data structure to identify closed loans;

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C. identifying a set of multiple closed loans recorded in the data structure that are qualified to back a loan-backed security, wherein the set of loans includes at least one loan closed at a locked rate; and

D. forming a loan-backed security by preparing documentation operatively associating the set of multiple loans with the security as the backing for the security.

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## II. REMARKS

In response to the Office Action of December 14, 2009, the Examiner is requested to reconsider the application in view of the amendment and remarks set forth below. It is believed that the amendment does not add new matter and that the amendment places the application in better condition for allowance or appeal.

Claims 1-45 are currently pending, and claims 17-45 have been made subject to a restriction requirement that has been traversed, and thus these claims are listed as withdrawn.

In the Office Action, on page 2, paragraph 6, claim 10 has been rejected pursuant to 35 U.S.C. Sec. 101. The Examiner contends that the claimed invention is directed to non-statutory subject matter for reasons set out in the Office Action.

In response, the rejection is respectfully traversed. The rejection is premised on the PTO's interpretation of *In re Bilksi*, which has been appealed to the U.S. Supreme Court. Normally the Supreme Court does not take a case to affirm it, and Applicant therefore disputes the rejection, and thus Applicant requests that the amendment be entered without prejudice pending the *Bilksi* decision.

Applicant has also amended claim 15 to remove "means for" language in view of recent court decisions which make it difficult to predict how a claim may be interpreted.

In the Office Action, on page 4, paragraph 5, claims 1-16 have been rejected under 35 U.S.C. 103(a). The Examiner contends that the claims are unpatentable over CRISTOFICH et al. (6,173,270), in view of "A Consumer's Guide To Mortgage Lock-Ins," hereinafter Mortgage-X. In response to Applicant's traversal of the rejection as improper pursuant to 35 U.S.C. Sec. 132 and Rule 104, the Examiner has relied on newly cited the "Dictionary of Finance and Investment Terms" definition. The rejection has been made final.

In response, it is respectfully submitted that this is a premature final rejection, and

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withdrawal of the final rejection is requested. The prior rejection did not comply with Sec. 132 and Rule 104, and entering the final rejection denies Applicant the fair opportunity to respond.

Applicant requests an Interview.

Additionally, neither CRISTOFICH nor Mortgage-X mentions "an option on a loan." See Office Action 2/18/2009, page 7. Thus, the rejection depends at least in part on the Examiner's newly cited Dictionary of Finance and Investment Terms".

However, the Examiner's newly cited Dictionary of Finance and Investment Terms" contradicts the obviousness rejection. The definition states that an option is the "right to buy or sell property...." Before closing, a loan is not property - or at least the Examiner has not shown otherwise. At page 6 of the Office Action, the Examiner points to the definition of "securities". A loan has not been shown to be a security, especially before closing - or at least the Examiner has not shown otherwise. Mortgage-X pertains to loan origination. Mortgage-X states, at page 1-2, that "a lock-in... is a lender's promise... while your loan application is processed." As such, the lock-in of Mortgage-X is not like a stock option in CRISTOFICH, at least because the stock of CRISTOFICH exists as property at the time of the option, but the loan of Mortgage-X has yet to be originated and is therefore not property, or has not been shown otherwise by the Examiner. The newly cited definition contradicts the Examiner's rejection and is evidence of unobviousness which must be considered. The final rejection is also premature, for this reason.

Applicant also disputes the reasoning by analogy as a basis for determining obviousness. What is necessary and missing from a prima facie showing of obviousness is a reason to combine or modify, and the Dictionary definition does not provide it - and indeed contradict or teaches away from it.

Additionally the Examiner has not shown how triggering execution of an option under CRISTOFICH would not be contradicted by executing a lock-in, i.e., loan origination, of

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Mortgage-X. This is the PTO burden in establishing a reason to combine or modify, and the burden has not been met.

Further, Applicant does not see how Mortgage-X would have a trigger subject to the computer operations set out in the claims and Applicant maintains the traversal of obviousness set out in the Amendment and Response filed on August 14, 2009.

Applicant does not concede that Mortgage-X is prior art, again requests an interview, but respectfully submits that the rejection is improper for failure to set out a prima facie case of obviousness.

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### III. CONCLUSION

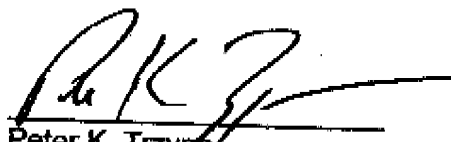
With respect to the present application, the Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer, if any, and the prior art that it was made to avoid, may need to be revisited. Nor should a disclaimer, if any, in the present application be read back into any predecessor or related application.

**APPLICANT CLAIMS SMALL ENTITY STATUS.** The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235.

Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,

Date: February 16, 2010

  
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